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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/693,790
Filing Date: October 20, 2000
Appellant(s): JERDING ET AL.

DAVID RODACK
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/13/09 appealing from the Office action mailed 07/25/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,481,010	NISHIKAWA ET AL.	11-2002
6,515,710	KOSHIMUTA	2-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

A1. Claims 117-128, 130, 131, 149-161, 166-167 and 170-185 are rejected under **35 U.S.C. 102(e)** as anticipated by or, **in the alternative, under 35 U.S.C. 103(a)** as obvious over **Nishikawa et al (6,481,010)**.

As to claim 117, note the **Nishikawa** reference figures 1-2 and 9-20, discloses an integrated Direct Satellite System/WebTV 'DSS/WebTV' receiver and further discloses a method for enabling a user to search for media programs, the method comprising:

Enabling a user to record a first set of media programs in a first storage device with a digital personal video recorder (Recording Device/DSS processing Unit/SDRAM/ROM 42/200/210/216 "PVR") (col.2, lines 6-26, col.5, lines 49-65, col.6, lines 14-43 and col.13, lines 19-45), note that the various units: Recording Device/DSS processing Unit/SDRAM/ROM 42/200/210/216 interconnected by buses is a PVR which permits a user to record programs, search and view recorded programs;

Storing media information corresponding to the recorded first set of media programs in the first storage device, the media information including information related to at least a title and media type for each media program (col.9, line 53-col.10, line 35 and col.13, lines 19-45);

Receiving media information corresponding to a second set of media programs that are currently being broadcast; receiving media information corresponding to a third set of media programs that are to be broadcast in future; storing the media information

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corresponding to the second and third sets on the media programs in a second storage device (col.9, line 53-col.10, line 35 and col.13, lines 19-45);

Providing to the user a search option to search for media programs; responsive to the user activating the search option, enabling the user to enter a search term; responsive to the user entering a search term (figs.17-18, col.14, line 53-15, line 63), searching the first and second storage devices for media information having a high level of correlation with the search; and providing a list of media programs corresponding to the media information having a high level of correlation with the search term and implementing an ST to provide the list on a TV (col.3, line 61-col.4, line 7, col.9, lines 53-col.10, line 35, col.14, line 53-col.16, line 19), note that the DSS processor 200 searches HDD-288 and/or memory 230 and other storage devices attached via 1394 cabling for a listing having a high correlation with the search term, including program(s) purchases to view or record and purchased programs, where the search terms are entered by the user using an input device or highlighting various elements on the on-screen keyboard 700.

Nishikawa teaches a plurality of storage devices (PVR, HDD, flash memory, SDRAM, etc.,) that stores various sets of media information and further enables a user to select programs for viewing/recording on a first storage device with the PVR, storing media information corresponding to the first set of media programs in the first storage device, the media information including information related to at least a title and media type for each media program, listing all PPV purchased, recorded programs and programs to be broadcast in future; Nishikawa further the use of a keyboard to enter a

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search term, which meets the claimed limitation "...user a search option to search media programs; responsive...searching the first and second storage devices for media information having a high level of correlation..."(col.2, lines 6-26, col.14, line 53-col.15, line 33, line 34-col.16, line 19).

However, if Applicant disagrees with the Examiner's assertion, then it would have been obvious the search term would be the title of the program.

Hence it would have be obvious to one of ordinary skill in the art at the time of the invention to modify Nishikawa to include a title to be enter for searching, so as to provide to the user an alternate way to search besides actor's name, sport team's name, movie director's name, etc.

As to claims 118-123, Nishikawa further discloses where responsive to the user activating the search option, further enabling the user to enter a search criteria based on a range of start times of the media programs, and where searching the first and second storage devices further comprising searching for media information corresponding to media programs having a start time within the range of start time, where the user enter a search criteria based on a range of start times comprises enabling the user to select time period from a plurality of time periods and the time period is selected from time periods specified by dates, where the dates are actual dates, are relative dates and includes "Today only, Today and Tomorrow and next 7 days (col.15, line 10-col.16, line 37).

As to claims 124-127, Nishikawa further discloses where the media information in the second storage device includes information indicating that a particular media

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program is a purchasable program, providing, with the list of media programs, an indication that the particular media program is a purchasable program, where the particular media program is a VOD and PPV program and providing the list of media programs, an indication that the media programs stored in the first storage device are programs recorded by the PVR, where the PVR is a RAM (col.13, 19-67).

As to claims 128-129, Nishikawa further discloses where when the media information in the second storage device includes information indicating that a particular media program is available via a subscription service, providing with the list of media programs, indication that the particular media program is available via subscription service (col.13, 19-67).

As to claim 149, Nishikawa further discloses an interactive media services system comprising:

A memory (HDD 228/Memory 230) of storing media information, the media information including information related to a title, start time, and media type for each of the plurality of media programs; a software program store in memory (col.5, lines 38-65), the software program comprising a plurality of executable functions;

A processor (DSS Processor 200) configured to execute the software program, wherein executing the software includes: the claimed method step of “enabling a user to record a first set of media programs...” is composed of the same structural elements that were discussed with respect to the rejection of claim 117.

Claims 150-155 are met as previously discussed with respect to claims 118-123.

Claims 156-159 are met as previously discussed with respect to claims 124-127.

Claims 160-161 are met as previously discussed with respect to claims 128-129.

Claims 166-167 are met as previously discussed with respect to claim 117.

Claim 170 is met as previously discussed with respect to claim 117.

As to claim 171, the claimed "A set-top terminal (STT) comprising..." is composed of the same structural elements that were discussed with respect to the rejection of claim 117.

As to claim 172, Nishikawa further discloses where the PVR is embodied within the STT (col.5, lines 38-65).

As to claim 173, Nishikawa further discloses where the PVR is external to the STT (col.3, lines 55-60).

Claims 174-180 are met as previously discussed with respect to claims 118-123.

Claims 181-184 are met as previously discussed with respect to claims 124-127.

Claim 185 is met as previously discussed with respect to claims 128-129.

A2. Claims 165, 168 and 169 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nishikawa et al (6,481,010)** as applied to claim 117 above.

As to claim 165, Nishikawa is silent as to the PVR is a random-access PVR.

However, Nishikawa further discloses other random-access storage devices (figs.2A and 2B).

Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Nishikawa to provide a RAM for RD-42 to efficiently record and retrieve various portions of the stored content as desired.

Claim 169 is met as previously discussed with respect to claim 165.

As to claim 168, Nishikawa is silent as to the PVR being a non-volatile storage device.

However, Nishikawa further discloses other non-volatile storage device (Flash memory 230) for storing various contents (figs.2A and 2B).

Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Nishikawa to provide non-volatile storage device to retain data even when power is removed.

A3. Claims 130-131, 162-163 and 186-187 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nishikawa et al (6,481,010)** as applied to claims 117, 149 and 171 above, and further in view of **Koshimuta (6,515,710)**.

As to claims 130-131, 162-163 and 186-187, **Nishikawa** fails to explicitly teach where the search option includes media information stored in the memory of the STT for media programs that satisfy at least one search criterion based on the quality of the media and further determining if it's a HDTV video signals

However, note the **Koshimuta** reference figures 1-5, disclose a television receiver that determines the video signal format based on data characterizing of the video signal being received and further determines if it's a HDTV, SDTV, NTSC, etc., video signals (col. 1, lines 9-19, col. 2, line 43-col. 3, line 24, col. 4, line 44-col. 5, line 9).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Koshimuta into the system of Nishikawa to identify the media quality of each media program to enable the user to beware of type of signal being received to enable the user to choose a signal type (HDTV, SDTV, NTSC, etc.,) that meets their receivers and to enable the receivers to reproduced the precise colors that meets manufactures specification or the receiver's capabilities.

(10) Response to Argument

The Examiner respectfully disagrees that the rejection should be reversed. Appellant discusses the prior arts of record and the claimed invention, cites portions of MPEP as to proper rejection under 35 U.S.C. 102(e) and further argues that: "...Nishikawa fails to disclose, teach, or suggest...claim features..." that "...neither program guide information,...can be construed as 'media programs'..." that "...VCR is clearly not a 'digital personal video recorder'..." that "...Nishikawa does not teach that this title, date, and time information are capable of being stored in the VCR where the programs are recorded..." that "...search of 'the Internet' clearly is not a search of a first and second devices..." that "...Appellant can find no teaching in Nishikawa that EPG is stored is stored in two devices..." that "...it is unreasonable to determine that the elements disclosed by Nishikawa teach searching the first and second storage devices for media information having a high level of correlation with the search term wherein the first storage device is the same device which records the media programs...", etc. (see page 5+ of Appellant's Brief).

In response, Examiner disagrees with assertion for several reasons. Examiner notes Appellant's arguments. Appellant(s) has mischaracterized the Nishikawa reference, making references to few various units for storing media programs and EPG or menu information. Nishikawa teaches a plurality of storage devices (Recording Device 'RD' 42 coupled via IEEE 1394 bus(es) to SDRAM, ROM, etc., HDD is coupled to flash memory, SDRAM, etc., via bus(es)) that records media programs (TV programs, Internet data (web pages, video programs, etc.) and stores various sets of media information (see figs.1-2). Nishikawa further teaches that DSS/WebTV Receiver 12, receives DSS/Internet data (EPG data, Internet data, etc.), stores the data in the various storage units to permit a user to access information (including web-sites data in time), periodically downloads the data (col.6, lines 15-59) and further teaches that incoming data is stored in a selected memory location, HDD (hard disk), Memory 230, VCR, etc., (col.7, line 44-col.8, line 1, col.9, lines 53-63). The guide (EPG) or menu data of the graphical user interface (GUI) data (see figs.7, 9-20) and the media data is stored on storage devices and upon a user interaction to the guide or menu of the GUI (which includes providing search terms) the processor searches the various storage units of the receiver and displays a search result(s). Nishikawa further permits the receiver system to search other remote server(s) and further permits a user to select programs for viewing/recording, including searching to display purchased programs and/or recorded programs (col.2, lines 6-26, col.5, lines 49-65, col.6, lines 14-43, col.9, line 53-col.10, line 35 and col.13, lines 19-45). The various units (figs.1 and 2A): VCR/DSS processing Unit/SDRAM/ROM 42/200/210/216 interconnected by buses is a PVR, which permits a user to record programs, search and

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view recorded programs. Nishikawa further teaches the use of a keyboard to enter a search term, which meets the claimed limitation "...user a search option to search media programs; responsive...searching the first and second storage devices for media information having a high level of correlation..."(col.2, lines 6-26, col.14, line 53-col.15, line 33, line 34-col.16, line 19). Clearly Nishikawa permits the user to interact to the menu of the GUI to search for a desire media program and the DSS processor 200 searches HDD-288 and/or memory 230 and other storage devices attached via 1394 cabling and also remote devices for a listing having a high correlation with the search term, including program(s) purchases to view or record and purchased programs, where the search terms are entered by the user using remote input device (keyboard or any input device) to highlight various elements on the GUI or to input a search term. In the alternate, if Applicant disagrees with the Examiner's assertion, then it would have been obvious the search term would be the title of the program, instead of actor's name, sport team's name, movie director's name, etc. as disclosed in Nishikawa (col.14, line 53-col.16, line 1+). Nishikawa meets all the claims limitations and hence the rejection is deemed proper and should be sustained.

As to claims 165 and 169, Examiner disagrees that the rejection should be overturned. Nishikawa teaches all the claims limitations but silent as to where the PVR is a random-access PVR. However, Nishikawa further discloses other random-access storage devices (figs.2A and 2B). Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Nishikawa to provide a

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RAM for RD-42 to efficiently record and retrieve various portions of the stored content as desired. Hence the rejection is deemed proper and should be sustained.

As to claim 168, Examiner disagrees that the rejection should be overturned. Nishikawa teaches all the claims limitations but silent as to the PVR being a non-volatile storage device. However, Nishikawa further discloses other non-volatile storage device (Flash memory 230) for storing various contents (figs.2A and 2B). Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Nishikawa to provide non-volatile storage device to retain data even when power is removed. Hence the rejection is deemed proper and should be sustained.

As to claims 130-131, 162-163 and 186-187, Examiner disagrees that the rejection should be overturned. Nishikawa teaches all the claims limitations but silent as to where the search option includes media information stored in the memory of the STT for media programs that satisfy at least one search criterion based on the quality of the media and further determining if it's a HDTV video signals. However, **Koshimuta** reference, figures 1-5, disclose a television receiver that determines the video signal format based on data characterizing of the video signal being received and further determines if it's a HDTV, SDTV, NTSC, etc., video signals (col. 1, lines 9-19, col. 2, line 43-col. 3, line 24, col. 4, line 44-col. 5, line 9). Hence the rejection is deemed proper and should be sustained. Appellant is further reminded that a reference can be relied upon for all that would have reasonably suggested to one of ordinary skilled in the art, including non-preferred/preferred embodiments. Hence the rejection is deemed proper and should be sustained

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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